

AMENDED IN SENATE APRIL 26, 2006

SENATE BILL

No. 1250

Introduced by Senator Perata
(Coauthor: Assembly Member Levine)

February 8, 2006

~~An act to amend Sections 399.6, 399.7, and 399.8 of, and to amend and repeal Sections 399 and 399.4 of, the Public Utilities Code, An act to amend Sections 25620, 25620.1, 25620.8, 25740, 25741, 25742, 25743, 25744, 25746, 25748, and 25751 of, to add Sections 25620.15 and 25740.5 to, and to repeal Sections 25620.9, 25745, 25749, and 25750 of, the Public Resources Code, and to amend Sections 381 and 399.8 of, to amend and repeal Sections 399 and 399.4 of, and to repeal Sections 383, 383.6, 384.1, 399.1, 399.2, 399.3, 399.6, 399.7, and 399.9 of, the Public Utilities Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, Perata. Energy: cost-effective energy efficiency programs: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a “public

goods—~~charge~~” *charge.*” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. The moneys collected by the public goods charge for renewable energy are required to be transferred to the State Energy Resources Conservation and Development Commission (Energy Commission), for deposit in the Renewable Resource Trust Fund, *for use for the renewable energy resources program. Some of the money in the fund, and in the accounts in the fund, is continuously appropriated to the Energy Commission for specified purposes related to renewable energy resources.* The moneys collected by the public goods charge for public interest research and development are required to be transferred to the Energy Commission, for deposit in the Public Interest Research, Development, and Demonstration Fund, *for use for specified purposes, including the public interest energy research, demonstration, and development program.*

(2) Existing law requires the PUC, in evaluating energy efficiency investments under its existing statutory authorities, to ensure that no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.

This bill would delete that refrigerator purchase restriction.

(3) Under the Reliable Electric Service Investments Act, the Energy Commission is required to hold moneys collected for renewable energy and deposited in the Renewable Resource Trust Fund and moneys collected for public interest research, development, and demonstration and deposited in the Public Interest Research, Development, and Demonstration Fund, until further action by the Legislature. The act requires the Energy Commission to create an initial investment plan, in accordance with specified objectives, to govern the allocation of funds in the Renewable Resource Trust Fund and Public Interest Research, Development, and Demonstration Fund, collected between January 1, 2002, and January 1, 2007. The act requires the Energy Commission, on or before March 31, 2006, to prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012, in accordance with specified objectives.

~~This bill would delete these requirements:~~

The bill would revise and recast the public interest energy research, demonstration, and development program, and the renewable energy

resources program, including the purposes for which money in the Renewable Resource Trust Fund may be used, thereby making an appropriation. The bill would make other related changes, including in the Reliable Electric Service Investments Act.

(4) The Reliable Electric Service Investment Act requires the Governor to appoint an independent review panel to prepare and submit to the Legislature and Energy Commission, by January 1, 2005, a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded by the public goods charge and to make recommendations relative to specified matters.

This bill would delete these requirements.

(5) The Reliable Electric Service Investment Act was enacted in 2 separate bills, each containing identical language.

This bill would repeal duplicative sections of the act.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25620 of the Public Resources Code is
2 amended to read:

3 25620. The Legislature hereby finds and declares all of the
4 following:

5 (a) It is in the best interests of the people of this state that the
6 quality of life of its citizens be improved by providing
7 environmentally sound, safe, reliable, and affordable energy
8 services and products.

9 (b) To improve the quality of life of this state's citizens, it is
10 proper and appropriate for the state to undertake public interest
11 energy research, development, and demonstration projects that
12 are not adequately provided for by competitive and regulated
13 energy markets.

14 (c) Public interest energy research, demonstration, and
15 development projects should advance energy science or
16 technologies of value to California citizens and should be
17 consistent with the policies of ~~Section 399.7 of the Public~~
18 ~~Utilities Code~~ *this chapter*.

(d) The commission should ~~use its adopted “Five-Year Investment Plan, 2002 Through 2006 for the Public Interest Energy Research (PIER) Program (Volume 1)” (P600-01-004a, March 1, 2001)~~ *adopt a five-year investment plan* to ensure compliance with the policies and provisions of ~~Section 399.7 of the Public Utilities Code~~ *this chapter* in the administration of public interest energy research, demonstration, and development programs.

SEC. 2. Section 25620.1 of the Public Resources Code is amended to read:

25620.1. (a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets. The commission shall administer the program consistent with the policies of ~~Section 399.7 of the Public Utilities Code~~ *this chapter*.

(b) (1) The *general* goal of the program is to provide public value for the benefit of California and its citizens through the development of technologies ~~which~~ *that* will improve environmental quality, enhance system reliability, increase efficiency of energy-using technologies, lower system costs, or provide other tangible *energy or environmental* benefits to *electric and natural gas utility customers*.

(2) *The specific goals of the program for the 2007–2011 investment cycle shall be all of the following:*

(A) *Petroleum use reduction and efficiency in the transportation sector.*

(B) *Natural gas appliance efficiency.*

(C) *Commercialization of advanced electric generation technologies, including integrated gasification combined cycle (IGCC) coal generation technology that exceeds state greenhouse gas performance standards.*

(D) *Technologies for achieving greenhouse gas reductions in the utility sector.*

(c) To achieve the ~~goal~~ *goals* established in subdivision (b), the commission shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible *energy or environmental* benefits for California—~~electricity ratepayers~~ *electric and natural gas utility customers*.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(10) Coordinates with other related research programs.

~~(d) The commission shall review the portfolio adopted pursuant to subdivision (c) in accordance with the “Five-Year Investment Plan, 2002 Through 2006 for the Public Interest Energy Research (PIER) Program (Volume 1)” (P600-01-004a, March 1, 2001):~~

~~(e)~~

(d) The term “award,” as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

SEC. 3. Section 25620.8 of the Public Resources Code is amended to read:

25620.8. The commission shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter *and progress toward achieving the goals set forth in Section 25620.1*. The report shall include information on the names of award

1 recipients, the amount of awards, and the types of projects
2 funded, an evaluation of the success of ~~any~~ funded projects, and
3 ~~any~~ recommendations for improvements in the program. The
4 report shall set forth the actual costs of programs or projects
5 funded by the commission, the results achieved, and how the
6 actual costs and results compare to the expected costs and
7 benefits. The commission shall establish procedures for
8 protecting confidential or proprietary information and shall
9 consult with all interested parties in the preparation of the annual
10 report.

11 *SEC. 4. Section 25620.9 of the Public Resources Code is*
12 *repealed.*

13 ~~25620.9. (a) Not later than three months after the enactment~~
14 ~~of this section, the commission shall designate a panel of~~
15 ~~independent experts with special expertise in public interest~~
16 ~~research, development, and demonstration programs. In order to~~
17 ~~ensure continuity in the evaluation of the public interest energy~~
18 ~~research, demonstration, and development projects, the~~
19 ~~commission, when practicable, shall select experts that served on~~
20 ~~prior independent review panels. The panel shall conduct a~~
21 ~~comprehensive evaluation of the program established pursuant to~~
22 ~~this chapter. The evaluation shall include a review of the public~~
23 ~~value of programs established pursuant to this chapter, including,~~
24 ~~but not limited to, the monetary and nonmonetary benefits to~~
25 ~~public health and the environment, and the benefit of providing~~
26 ~~funds for technology development that would otherwise not be~~
27 ~~funded.~~

28 ~~(b) Not later than 15 months after the enactment of this~~
29 ~~section, the panel designated pursuant to subdivision (a) shall~~
30 ~~submit a preliminary report to the Governor and to the~~
31 ~~Legislature on its findings and recommendations on the~~
32 ~~implementation of the program established pursuant to this~~
33 ~~chapter. The panel, not later than 30 months after the enactment~~
34 ~~of this section, shall submit a final report to the Governor and to~~
35 ~~the Legislature, including any additional findings and~~
36 ~~recommendations regarding implementation of the program.~~

37 ~~(c) This section shall remain in effect only until July 1, 2006,~~
38 ~~and as of that date is repealed, unless a later enacted statute, that~~
39 ~~is enacted before January 1, 2007, deletes or extends that date.~~

1 SEC. 5. Section 25620.15 is added to the Public Resources
2 Code, to read:

3 25620.15. (a) In order to ensure that prudent investments in
4 research, development, and demonstration of energy efficient
5 technologies continue to produce substantial economic,
6 environmental, public health, and reliability benefits, it is the
7 policy of the state and the intent of the Legislature that funds
8 made available, upon appropriation, for energy related public
9 interest research, development, and demonstration programs
10 shall be used to advance science or technology that is not
11 adequately provided by competitive and regulated markets.

12 (b) Notwithstanding any other provision of law, money
13 collected for public interest research, development, and
14 demonstration pursuant to this section shall be transferred to the
15 Public Interest Research, Development, and Demonstration
16 Fund. Money collected between January 1, 2007, and January 1,
17 2012, shall be used for the purposes specified in this chapter.

18 (c) In lieu of the Public Utilities Commission retaining funds
19 authorized pursuant to Section 381 of the Public Utilities Code
20 for investments made by electrical corporations in public interest
21 research, development, and demonstration projects for
22 transmission and distribution functions, up to 10 percent of the
23 funds transferred to the commission pursuant to subdivision (b)
24 shall be awarded to electrical corporations for public interest
25 research, development, and demonstration projects for
26 transmission and distribution functions consistent with the
27 policies and subject to the requirements of this chapter.

28 SEC. 6. Section 25740 of the Public Resources Code is
29 amended to read:

30 25740. It is the intent of the Legislature in establishing this
31 program, to increase the amount of ~~renewable~~ electricity
32 generated from eligible renewable energy resources per year, so
33 that it equals at least ~~17~~ 20 percent of the total retail sales of
34 electricity ~~generated for consumption~~ in California per year by
35 ~~2006~~ December 31, 2010.

36 SEC. 7. Section 25740.5 is added to the Public Resources
37 Code, to read:

38 25740.5. (a) In order to optimize public investment and
39 ensure that the most cost-effective and efficient investments in
40 renewable resources are vigorously pursued, the commission

1 shall create an investment plan as set forth in paragraphs (1) to
2 (3), inclusive, to govern the allocation of funds provided
3 pursuant to Article 15 (commencing with Section 399) of Chapter
4 2.3 of Part 1 of Division 1 of the Public Utilities Code. The
5 commission's long-term goal shall be a fully competitive and
6 self-sustaining California renewable energy supply. The
7 investment plan shall be in accordance with all of the following:

8 (1) The investment plan's objective shall be to increase, in the
9 near term, the quantity of California's electricity generated by
10 in-state renewable energy resources, while protecting system
11 reliability, fostering resource diversity, and obtaining the
12 greatest environmental benefits for California residents.

13 (2) An additional objective of the plan shall be to identify and
14 support emerging renewable energy technologies that have the
15 greatest near-term commercial promise and that merit targeted
16 assistance.

17 (3) The investment plan shall contain specific numerical
18 targets, reflecting the projected impact of the plan, for both of the
19 following:

20 (A) Increased quantity of California electrical generation
21 produced from emerging technologies and from overall
22 renewable resources.

23 (B) Increased supply of renewable generation available from
24 facilities other than those selling to investor-owned utilities
25 under contracts entered into prior to 1996 under the federal
26 Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

27 (b) The commission shall, on an annual basis, evaluate
28 progress on meeting the targets set forth in subparagraphs (A)
29 and (B) of paragraph (3) of subdivision (a), or any substitute
30 provisions adopted by the Legislature upon review of the
31 investment plan, and assess the impact of the investment plan on
32 reducing the cost to Californians of renewable energy
33 generation.

34 (c) In preparing these investment plans, the commission shall
35 recommend allocations among all of the following:

36 (1) (A) Except as provided in subparagraph (B), production
37 incentives for new renewable energy, including repowered or
38 refurbished renewable energy.

39 (B) Allocations shall not be made for renewable energy that is
40 generated by a project that remains under a power purchase

1 *contract with an electrical corporation originally entered into*
2 *prior to September 24, 1996, whether amended or restated*
3 *thereafter.*

4 *(C) Notwithstanding subparagraph (B), production incentives*
5 *for incremental new, repowered, or refurbished renewable*
6 *energy from existing projects under a power purchase contract*
7 *with an electrical corporation originally entered into prior to*
8 *September 24, 1996, whether amended or restated thereafter,*
9 *may be allowed in any month, if all of the following occur:*

10 *(i) The project's power purchase contract provides that all*
11 *energy delivered and sold under the contract is paid at a price*
12 *that does not exceed the Public Utilities Commission approved*
13 *short-run avoided cost of energy.*

14 *(ii) Either of the following:*

15 *(I) The power purchase contract is amended to provide that*
16 *the kilowatthours used to determine the capacity payment in any*
17 *time-of-delivery period in any month under the contract shall be*
18 *equal to the actual kilowatthour production, but no greater than*
19 *the five-year average of the kilowatthours delivered for the*
20 *corresponding time-of-delivery period and month, in the years*
21 *1994 to 1998, inclusive.*

22 *(II) If a project's installed capacity as of December 31, 1998,*
23 *is less than 75 percent of the nameplate capacity as stated in the*
24 *power purchase contract, the power purchase contract is*
25 *amended to provide that the kilowatthours used to determine the*
26 *capacity payment in any time-of-delivery period in any month*
27 *under the contract shall be equal to the actual kilowatthour*
28 *production, but no greater than the product of the five-year*
29 *average of the kilowatthours delivered for the corresponding*
30 *time-of-delivery period and month, in the years 1994 to 1998,*
31 *inclusive, and the ratio of installed capacity as of December 31*
32 *of the previous year, but not to exceed contract nameplate*
33 *capacity, to the installed capacity as of December 31, 1998.*

34 *(iii) The production incentive is payable only with respect to*
35 *the kilowatthours delivered in a particular month that exceeds*
36 *the corresponding five-year average calculated pursuant to*
37 *clause (ii).*

38 *(2) Rebates, buydowns, or equivalent incentives for emerging*
39 *renewable technologies.*

40 *(3) Customer education.*

1 (4) *Incentives for reducing fuel costs that are confirmed to the*
2 *satisfaction of the commission at solid fuel biomass energy*
3 *facilities in order to provide demonstrable environmental and*
4 *public benefits, including, but not limited to, air quality.*

5 (5) *Solar thermal generating resources that enhance the*
6 *environmental value or reliability of the electrical system and*
7 *that require financial assistance to remain economically viable,*
8 *as determined by the commission. The commission may require*
9 *financial disclosure from applicants for purposes of this*
10 *paragraph.*

11 (6) *Specified fuel cell technologies, if the commission makes*
12 *all of the following findings:*

13 (A) *The specified technologies have similar or better air*
14 *pollutant characteristics than renewable technologies in the*
15 *investment plan.*

16 (B) *The specified technologies require financial assistance to*
17 *become commercially viable by reference to wholesale*
18 *generation prices.*

19 (C) *The specified technologies could contribute significantly*
20 *to the infrastructure development or other innovation required to*
21 *meet the long-term objective of a self-sustaining, competitive*
22 *supply of renewable energy.*

23 (7) *Existing wind-generating resources, if the commission*
24 *finds that the existing wind-generating resources are a*
25 *cost-effective source of reliable energy and environmental*
26 *benefits compared with other eligible sources, and that the*
27 *existing wind-generating resources require financial assistance*
28 *to remain economically viable. The commission may require*
29 *financial disclosure from applicants for the purposes of this*
30 *paragraph.*

31 (d) *Notwithstanding any other provision of law, moneys*
32 *collected for renewable energy pursuant to Article 15*
33 *(commencing with Section 399) of Chapter 2.3 of Part 1 of*
34 *Division 1 of the Public Utilities Code shall be transferred to the*
35 *Renewable Resource Trust Fund. Moneys collected between*
36 *January 1, 2007, and January 1, 2012, shall be used for the*
37 *purposes specified in this chapter.*

38 SEC. 8. *Section 25741 of the Public Resources Code is*
39 *amended to read:*

25741. As used in this chapter, the following terms have the following meaning:

(a) “In-state renewable electricity generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility *meets one of the following requirements*:

(A) *The facility is located in the state or near the border of the state with the first point of connection to the ~~Western Electricity Coordinating Council (WECC)~~ transmission system located network within this state and electricity produced by the facility is delivered to an in-state location.*

(B) *The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements*:

(i) *It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.*

(ii) *It commences initial commercial operation after January 1, 2005.*

(iii) *Electricity produced by the facility is delivered to an in-state location.*

(iv) *It will not cause or contribute to a violation of a California environmental quality standard or requirement.*

(v) *If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.*

(vi) *It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.*

(C) *The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements*:

1 (i) *The electricity is from incremental generation resulting*
2 *from expansion or repowering of the facility.*

3 (ii) *The facility has been part of the existing baseline of*
4 *eligible renewable energy resources of a retail seller established*
5 *pursuant to subdivision (a) of Section 399.15 of the Public*
6 *Utilities Code.*

7 (3) For the purposes of this subdivision, “solid waste
8 conversion” means a technology that uses a noncombustion
9 thermal process to convert solid waste to a clean-burning fuel for
10 the purpose of generating electricity, and that meets all of the
11 following criteria:

12 (A) The technology does not use air or oxygen in the
13 conversion process, except ambient air to maintain temperature
14 control.

15 (B) The technology produces no discharges of air
16 contaminants or emissions, including greenhouse gases as
17 defined in Section 42801.1 of the Health and Safety Code.

18 (C) The technology produces no discharges to surface or
19 groundwaters of the state.

20 (D) The technology produces no hazardous wastes.

21 (E) To the maximum extent feasible, the technology removes
22 all recyclable materials and marketable green waste compostable
23 materials from the solid waste stream prior to the conversion
24 process and the owner or operator of the facility certifies that
25 those materials will be recycled or composted.

26 (F) The facility at which the technology is used is in
27 compliance with all applicable laws, regulations, and ordinances.

28 (G) The technology meets any other conditions established by
29 the commission.

30 (H) The facility certifies that ~~any~~ a local agency sending solid
31 waste to the facility diverted at least 30 percent of all solid waste
32 it collects through solid waste reduction, recycling, and
33 composting. For purposes of this paragraph “local agency”
34 means ~~any~~ a city, county, or special district, or subdivision
35 thereof, ~~which~~ that is authorized to provide solid waste handling
36 services.

37 (b) “Renewable energy public goods charge” means that
38 portion of the nonbypassable system benefits charge authorized
39 to be collected and to be transferred to the Renewable Resource
40 Trust Fund pursuant to the Reliable Electric Service Investments

1 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
2 Part 1 of Division 1 of the Public Utilities Code).

3 ~~(e) “Report” means the report entitled “Investing in~~
4 ~~Renewable Electricity Generation in California” (June 2001,~~
5 ~~Publication Number P500-00-022) submitted to the Governor~~
6 ~~and the Legislature by the commission.~~

7 *(c) “Retail seller” has the same meaning as that term is*
8 *defined in Section 399.12 of the Public Utilities Code.*

9 *(d) “Delivered” and “delivery” mean the electricity output of*
10 *an in-state renewable electric generation facility that is used to*
11 *serve end-use retail customers located within the state. Subject to*
12 *verification by the accounting system established by the*
13 *commission pursuant to subdivision (b) of Section 399.13 of the*
14 *Public Utilities Code, electricity shall be deemed delivered if it is*
15 *either provided at a location within the state, or, if provided at a*
16 *location adjacent to the state, the electricity is subsequently*
17 *metered and settled at a location within the state.*

18 *SEC. 9. Section 25742 of the Public Resources Code is*
19 *amended to read:*

20 25742. (a) ~~Twenty~~____ percent of the funds collected
21 pursuant to the renewable energy public goods charge shall be
22 used for programs that are designed to ~~improve the~~
23 ~~competitiveness of~~ *achieve fully competitive and self-sustaining*
24 *existing in-state renewable electricity generation facilities, and to*
25 *secure for the state the environmental, economic, and reliability*
26 *benefits that continued operation of those facilities will provide,*
27 *during the 2007–2011 investment cycle. Eligibility for incentives*
28 *under this section shall be limited to those technologies found*
29 *eligible for funds by the commission pursuant to paragraphs (5),*
30 ~~(6), and (8)~~ *(4), (5), and (7) of subdivision (c) of Section 399.6 of*
31 ~~the Public Utilities Code 25740.5.~~

32 (b) Any funds used to support in-state renewable electricity
33 generation facilities pursuant to this section shall be expended in
34 accordance with the provisions of the ~~report, subject to all of the~~
35 ~~following requirements:~~ *commission’s five year investment plan*
36 *and this chapter.*

37 ~~(1) Of the funding for existing renewable electricity generation~~
38 ~~facilities available pursuant to this section, 75 percent shall be~~
39 ~~used to fund first tier technologies, including biomass and solar~~

1 electric technologies and 25 percent shall be used to fund second
2 tier wind technologies.

3 (2) ~~The commission shall reexamine the tier structure as~~
4 ~~proposed in the report and adjust the structure to reflect market~~
5 ~~and contractual conditions. The commission shall also consider~~
6 ~~inflation when adjusting the structure.~~

7 (3) ~~The commission shall establish a cents per kilowatthour~~
8 ~~production incentive, not to exceed the payment caps per~~
9 ~~kilowatthour established in the report, as those payment caps are~~
10 ~~revised in guidelines adopted by the commission, representing~~
11 ~~the difference between target prices and the price paid for~~
12 ~~electricity, if sufficient funds are available. If there are~~
13 ~~insufficient funds in any payment period to pay either the~~
14 ~~difference between the target and price paid for electricity or the~~
15 ~~payment caps, production incentives shall be based on the~~
16 ~~amount determined by dividing available funds by eligible~~
17 ~~generation. The price paid for electricity shall be determined by~~
18 ~~the commission based on the energy prices paid to nonutility~~
19 ~~power generators as authorized by the Public Utilities~~
20 ~~Commission, or on otherwise available measures of price. For the~~
21 ~~first tier technologies, the commission shall establish a~~
22 ~~time-differentiated incentive structure that encourages plants to~~
23 ~~run the maximum feasible amount of time and that provides a~~
24 ~~higher incentive when the plants are receiving the lowest price.~~

25 (4)

26 (c) Facilities that are eligible to receive funding pursuant to
27 this section shall be registered in accordance with criteria
28 developed by the commission and those facilities ~~may~~ *shall* not
29 receive payments for any electricity produced that has any of the
30 following characteristics:

31 (A)

32 (1) Is sold at monthly average rates equal to or greater than the
33 applicable target price, as determined by the commission.

34 (B) ~~Is that portion of electricity generation attributable to the~~
35 ~~use of qualified agricultural biomass fuel, for a facility that is~~
36 ~~receiving fuel-based incentives through the Agricultural~~
37 ~~Biomass-to-Energy Incentive Grant Program established~~
38 ~~pursuant to Part 3 (commencing with Section 1101) of Division 1~~
39 ~~of the Food and Agricultural Code. Notwithstanding subdivision~~
40 ~~(f) of Section 1104 of the Food and Agricultural Code, facilities~~

1 ~~that receive funding from the Agricultural Biomass-to-Energy~~
2 ~~Incentive Grant Program are eligible to receive funding pursuant~~
3 ~~to this section.~~

4 (C)

5 (2) ~~Is used onsite or is sold to customers in a manner that~~
6 ~~excludes competitive transition charge payments, or is otherwise~~
7 ~~excluded from competitive transition charge payments.~~

8 *(d) Existing facilities generating electricity from biomass*
9 *energy shall be eligible for funding and otherwise considered an*
10 *in-state renewable electricity generation facility only if they*
11 *report to the commission the types and quantities of biomass*
12 *fuels used and certify to the satisfaction of the commission that*
13 *fuel utilization is limited to the fuels specified in subdivision (f) of*
14 *Section 25743. The commission shall report the types and*
15 *quantities of biomass fuels used by each facility to the*
16 *Legislature in the reports prepared pursuant to Section 25748.*

17 *(e) Each existing facility seeking an award pursuant to this*
18 *section shall be evaluated by the commission to determine the*
19 *amount of the funds being sought, the cumulative amount of*
20 *funds the facility has received previously from the commission*
21 *and other state sources, the value of any past and current federal*
22 *or state tax credits, the facility's contract price for energy and*
23 *capacity, the prices received by similar facilities, the market*
24 *value of the facility, and the likelihood that the award will make*
25 *the facility competitive and self-sustaining within the 2007–2011*
26 *investment cycle. The commission shall use this evaluation to*
27 *determine the value of an award to the public relative to other*
28 *renewable energy investment alternatives. The commission shall*
29 *compile its findings and report them to the Legislature in the*
30 *reports prepared pursuant to Section 25748.*

31 *SEC. 10. Section 25743 of the Public Resources Code is*
32 *amended to read:*

33 25743. (a) ~~Fifty-one and one-half~~____ percent of the money
34 collected pursuant to the renewable energy public goods charge;
35 shall be used for programs designed to foster the development of
36 new in-state renewable electricity generation facilities, and to
37 secure for the state the environmental, economic, and reliability
38 benefits that operation of those facilities will provide.

39 (b) Any funds used for new in-state renewable electricity
40 generation facilities pursuant to this section shall be expended in

1 accordance with the ~~report~~ *commission's five-year investment*
2 *plan and this chapter*, subject to all of the following
3 requirements:

4 (1) In order to cover the above market costs of *eligible*
5 *renewable energy* resources as approved by the Public Utilities
6 Commission and selected by retail sellers to fulfill their
7 obligations under Article 16 (commencing with Section 399.11)
8 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
9 Code, the commission shall award funds in the form of
10 supplemental energy payments, subject to the following criteria:

11 (A) The commission may establish caps on supplemental
12 energy payments. The caps shall be designed to provide for a
13 viable energy market capable of achieving the goals of Article 16
14 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
15 *Division 1* of the Public Utilities Code. The commission may
16 waive application of the caps to accommodate a facility, if it is
17 demonstrated to the satisfaction of the commission; that
18 operation of the facility would provide substantial economic and
19 environmental benefits to end-use customers subject to the
20 ~~funding requirements of the~~ renewable energy public goods
21 charge.

22 (B) Supplemental energy payments shall be awarded only to
23 facilities that are eligible for funding under this ~~subdivision~~
24 *section*.

25 (C) Supplemental energy payments awarded to facilities
26 selected by an electrical corporation pursuant to Article 16
27 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
28 Division 1 of the Public Utilities Code shall be paid for ~~the lesser~~
29 ~~of 10 years, or the duration of the contract with the electrical~~
30 ~~corporation~~ *no longer than 10 years, but shall, subject to the*
31 *payment caps in subparagraph (A), be equal to the cumulative*
32 *above-market costs relative to the applicable market price*
33 *referent at the time of initial contracting, over the duration of the*
34 *contract with the electrical corporation*.

35 (D) The commission shall reduce or terminate supplemental
36 energy payments for projects that fail either to commence and
37 maintain operations consistent with the contractual obligations to
38 an electrical corporation; or that fail to meet eligibility
39 requirements.

1 (E) Funds shall be managed in an equitable manner in order
2 for retail sellers to meet their obligation under Article 16
3 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
4 Division 1 of the Public Utilities Code.

5 ~~(2) The commission may determine as part of a solicitation,~~
6 ~~that a facility that does not meet the definition of an “in-state~~
7 ~~renewable electricity generation technology” facility solely~~
8 ~~because it is located outside the state, is eligible for funding~~
9 ~~under this subdivision if it meets all of the following~~
10 ~~requirements:~~

11 ~~(A) It is located so that it is or will be connected to the~~
12 ~~Western Electricity Coordinating Council (WECC) transmission~~
13 ~~system.~~

14 *(F) A project selected by an electrical corporation may*
15 *receive supplemental energy payments only if it results from a*
16 *competitive solicitation that is found by the Public Utilities*
17 *Commission to comply with the California Renewables Portfolio*
18 *Standard Program under Article 16 (commencing with Section*
19 *399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public*
20 *Utilities Code, and the project has entered into an electricity*
21 *purchase agreement resulting from that solicitation, that is*
22 *approved by the Public Utilities Commission. A project selected*
23 *for an electricity purchase agreement by another retail seller*
24 *may receive supplemental energy payments only if the retail*
25 *seller demonstrates to the Public Utilities Commission that the*
26 *selection of the project is consistent with the results of a*
27 *least-cost and best-fit process, and the supplemental energy*
28 *payments are reasonable in comparison to those paid under*
29 *similar contracts with other retail sellers. The commission shall*
30 *not award supplemental energy payments to service load that is*
31 *not subject to the renewable energy public goods charge.*

32 *(2) A facility that is located outside of California shall not be*
33 *eligible for funding under this section unless it meets all of the*
34 *following requirements:*

35 *(A) It is located near the border of the state with its first point*
36 *of interconnection to the Western Electricity Coordinating*
37 *Council (WECC) transmission system located within the state.*

38 *(B) It is developed with guaranteed contracts to sell its*
39 *generation to end-use customers subject to the funding*
40 *requirements of Section Sections 381 and 399.8 of the Public*

1 *Utilities Code, and Section 25620.15, or to marketers that*
2 *provide this guarantee for resale of the generation, for a period of*
3 *time at least equal to the amount of time it receives incentive*
4 *payments under this subdivision.*

5 (C) It will not cause or contribute to ~~any~~ a violation of a
6 ~~California~~ state environmental quality standard or requirement.

7 (D) If the facility is outside of the United States, it is
8 developed and operated in a manner that is as protective of the
9 environment as a similar facility located in the state.

10 (E) It meets any other condition established by the
11 commission.

12 (3) Facilities that are eligible to receive funding pursuant to
13 ~~this subdivision~~ *section* shall be registered in accordance with
14 criteria developed by the commission and those facilities ~~may~~
15 *shall* not receive payments for any electricity produced that has
16 any of the following characteristics:

17 (A) Is sold under an existing long-term contract with an
18 existing in-state electrical corporation if the contract includes
19 fixed energy or capacity payments, except for that electricity that
20 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
21 ~~Section 399.6 of the Public Utilities Code 25740.5, but does not~~
22 *receive funding pursuant to that section.*

23 (B) Is used onsite ~~or is sold to customers in a manner that~~
24 ~~excludes competitive transition charge payments, or is otherwise~~
25 ~~excluded from competitive transition charge payments.~~

26 (C) ~~Is produced by a facility that is owned by an electrical~~
27 ~~corporation or a local publicly owned electric utility as defined in~~
28 ~~subdivision (d) of Section 9604 of the Public Utilities Code.~~

29 ~~(D)~~

30 (C) Is a hydroelectric generation project that will require a
31 new or increased appropriation of water under Part 2
32 (commencing with Section 1200) of Division 2 of the Water
33 Code.

34 ~~(E)~~

35 (D) Is a solid waste conversion facility, unless the facility
36 meets the criteria established in paragraph (3) of subdivision (a)
37 of Section 25741 and the facility certifies that ~~any~~ a local agency
38 sending solid waste to the facility is in compliance with Division
39 30 (commencing with Section 40000), has reduced, recycled, or
40 composted solid waste to the maximum extent feasible, and shall

1 have been found by the California Integrated Waste Management
2 Board to have diverted at least 30 percent of all solid waste
3 through source reduction, recycling, and composting.

4 ~~(4) Eligibility to compete for funds or to receive funds shall be~~
5 ~~contingent upon having to sell the output of the renewable~~
6 ~~electricity generation facility to customers subject to the funding~~
7 ~~requirements of the renewable energy public goods charge.~~

8 ~~(5)~~

9 (4) The commission may require applicants competing for
10 funding to post a forfeitable bid bond or other financial guaranty
11 as an assurance of the applicant's intent to move forward
12 expeditiously with the project proposed. The amount of any bid
13 bond or financial guaranty may not exceed 10 percent of the total
14 amount of the funding requested by the applicant.

15 ~~(6)~~

16 (5) In awarding funding, the commission may provide
17 preference to projects that provide tangible demonstrable benefits
18 to communities with a plurality of minority or low-income
19 populations.

20 (c) Repowered existing facilities shall be eligible for funding
21 under this subdivision if the capital investment to repower the
22 existing facility equals at least 80 percent of the value of the
23 repowered facility.

24 (d) Facilities engaging in the direct combustion of municipal
25 solid waste or tires are not eligible for funding under this
26 ~~subdivision~~ *section*.

27 (e) Production incentives awarded under this ~~subdivision~~
28 *section* prior to January 1, 2002, shall commence on the date that
29 a project begins electricity production, provided that the project
30 was operational prior to January 1, 2002, unless the commission
31 finds that the project will not be operational prior to January 1,
32 2002, due to circumstances beyond the control of the developer.
33 Upon making a finding that the project will not be operational
34 due to circumstances beyond the control of the developer, the
35 commission shall pay production incentives over a five-year
36 period, commencing on the date of operation, provided that the
37 date that a project begins electricity production ~~may~~ *shall* not
38 extend beyond January 1, 2007.

39 (f) Facilities generating electricity from biomass energy shall
40 be considered an in-state renewable electricity generation

1 ~~technology~~ facility to the extent that they report to the
2 commission the types and quantities of biomass fuels used and
3 certify to the satisfaction of the commission that fuel utilization
4 is limited to the following:

5 (1) Agricultural crops and agricultural wastes and residues.

6 (2) Solid waste materials such as waste pallets, crates,
7 dunnage, manufacturing, and construction wood wastes,
8 landscape or right-of-way tree trimmings, mill residues that are
9 directly the result of the milling of lumber, and rangeland
10 maintenance residues.

11 (3) Wood and wood wastes that meet all of the following
12 requirements:

13 (A) Have been harvested pursuant to an approved timber
14 harvest plan prepared in accordance with the Z'berg-Nejedly
15 Forest Practice Act of 1973 (Chapter 8 (commencing with Sec.
16 4511) of Part 2 of Division 4).

17 (B) Have been harvested for the purpose of forest fire fuel
18 reduction or forest stand improvement.

19 (C) Do not transport or cause the transportation of species
20 known to harbor insect or disease nests outside zones of
21 infestation or current quarantine zones, as identified by the
22 Department of Food and Agriculture or the Department of
23 Forestry and Fire Protection, unless approved by the Department
24 of Food and Agriculture and the Department of Forestry and Fire
25 Protection.

26 *SEC. 11. Section 25744 of the Public Resources Code is*
27 *amended to read:*

28 25744. (a) ~~Seventeen and one-half~~____ percent of the money
29 collected pursuant to the renewable energy public goods charge
30 shall be used for a multiyear, consumer-based program to foster
31 the development of emerging renewable technologies in
32 distributed generation applications.

33 (b) Any funds used for emerging technologies pursuant to this
34 section shall be expended in accordance with the ~~report~~
35 *commission's five-year investment plan and this chapter*, subject
36 to all of the following requirements:

37 (1) Funding for emerging technologies shall be provided
38 through a competitive, market-based process that ~~shall be~~ *is* in
39 place for a period of not less than five years, and ~~shall be~~ *is*
40 structured ~~so as~~ to allow eligible emerging technology

1 manufacturers and suppliers to anticipate and plan for increased
2 sale and installation volumes over the life of the program.

3 (2) The program shall provide monetary rebates, buydowns, or
4 equivalent incentives, subject to ~~subparagraph (C)~~ *paragraph (3)*,
5 to purchasers, lessees, lessors, or sellers of eligible electricity
6 generating systems. Incentives shall benefit the end-use
7 consumer of renewable generation by directly and exclusively
8 reducing the purchase or lease cost of the eligible system, or the
9 cost of electricity produced by the eligible system. Incentives
10 shall be issued on the basis of the rated electrical generating
11 capacity of the system measured in watts, or the amount of
12 electricity production of the system, measured in kilowatthours.
13 Incentives shall be limited to a maximum percentage of the
14 system price, as determined by the commission.

15 (3) Eligible distributed emerging technologies are
16 ~~photovoltaic, solar thermal electric, fuel cell technologies that~~
17 ~~utilize renewable fuels, and wind turbines of not more than 50~~
18 ~~kilowatts rated electrical generating capacity per customer site,~~
19 ~~and other distributed renewable emerging technologies that meet~~
20 ~~the emerging technology eligibility criteria established by the~~
21 ~~commission and are not eligible for rebates, buydowns, or~~
22 ~~similar incentives from any other commission or Public Utilities~~
23 ~~Commission program.~~ Eligible electricity generating systems are
24 intended primarily to offset part or all of the consumer's own
25 electricity demand, and shall not be owned by local publicly
26 owned electric utilities, nor be located at a customer site that is
27 not receiving distribution service from an electrical corporation
28 that is subject to the renewable energy public goods charge and
29 contributing funds to support programs under this chapter. All
30 eligible electricity generating system components shall be new
31 and unused, shall not have been previously placed in service in
32 any other location or for any other application, and shall have a
33 warranty of not less than five years to protect against defects and
34 undue degradation of electrical generation output. Systems and
35 their fuel resources shall be located on the same premises of the
36 end-use consumer where the consumer's own electricity demand
37 is located, and all eligible electricity generating systems shall be
38 connected to the utility grid in California. The commission may
39 require eligible electricity generating systems to have meters in
40 place to monitor and measure a system's performance and

1 generation. Only systems that will be operated in compliance
2 with applicable law and the rules of the Public Utilities
3 Commission shall be eligible for funding.

4 (4) The commission shall limit the amount of funds available
5 for ~~any~~ a system or project of multiple systems and reduce the
6 level of funding for ~~any~~ a system or project of multiple systems
7 that has received, or may be eligible to receive, any government
8 or utility funds, incentives, or credit.

9 (5) In awarding funding, the commission may provide
10 preference to systems that provide tangible demonstrable benefits
11 to communities with a plurality of minority or low-income
12 populations.

13 (6) In awarding funding, the commission shall develop and
14 implement eligibility criteria and a system that provides
15 preference to systems based upon system performance, taking
16 into account factors, including, ~~but not limited to~~, shading,
17 insulation levels, and installation orientation.

18 (7) At least once annually, the commission shall publish and
19 make available to the public the balance of funds available for
20 emerging renewable energy resources for rebates, buydowns, and
21 other incentives for the purchase of these resources.

22 (c) ~~Notwithstanding Section 399.6 of the Public Utilities Code~~
23 ~~27540.5~~, the commission may expend, until December 31, 2008,
24 up to sixty million dollars (\$60,000,000) of the funding allocated
25 to the Renewable Resources Trust Fund for the program
26 established in this section, subject to the repayment requirements
27 of subdivision (f) of Section 25751.

28 (d) *Any funds for photovoltaic or solar thermal electric*
29 *technologies shall be awarded pursuant to Chapter 8.8*
30 *(commencing with Section 25780) if that chapter is added by*
31 *Senate Bill No. 1 of 2005–06 Regular Session, and not this*
32 *section.*

33 *SEC. 12. Section 25745 of the Public Resources Code is*
34 *repealed.*

35 ~~25745. (a) Ten percent of the money collected pursuant to~~
36 ~~the renewable energy public goods charge shall be used to~~
37 ~~provide customer credits to customers that entered into a direct~~
38 ~~transaction on or before September 20, 2001, for purchases of~~
39 ~~electricity produced by registered in-state renewable electricity~~
40 ~~generating facilities.~~

1 ~~(b) Any funds used for customer credits pursuant to this~~
2 ~~section shall be expended, as provided in the report, subject to all~~
3 ~~of the following requirements:~~

4 ~~(1) Customer credits shall be awarded to California retail~~
5 ~~customers located in the service territory of an electrical~~
6 ~~corporation that is subject to the renewable energy public goods~~
7 ~~charge that is contributing funds to support programs under this~~
8 ~~chapter, and that is purchasing qualifying electricity from~~
9 ~~renewable electricity generating facilities, through transactions~~
10 ~~traceable to specific generation sources by any auditable contract~~
11 ~~trail or equivalent that provides commercial verification that the~~
12 ~~electricity from the claimed renewable electricity generating~~
13 ~~facilities has been sold once and only once to a retail customer.~~

14 ~~(2) Credits awarded pursuant to this paragraph may be paid~~
15 ~~directly to electric service providers, energy marketers,~~
16 ~~aggregators, or generators if those persons or entities account for~~
17 ~~the credits on the recipient customer's bills. Credits may not~~
18 ~~exceed one and one-half cents (\$0.015) per kilowatthour. Credits~~
19 ~~awarded to members of the combined class of customers, other~~
20 ~~than residential and small commercial customers, may not exceed~~
21 ~~one thousand dollars (\$1,000) per customer per calendar year. In~~
22 ~~no event may more than 20 percent of the total customer~~
23 ~~incentive funds be awarded to members of the combined class of~~
24 ~~customers other than residential and small commercial~~
25 ~~customers.~~

26 ~~(3) The commission shall develop criteria and procedures for~~
27 ~~the identification of energy purchasers and providers that are~~
28 ~~eligible to receive funds pursuant to this paragraph through a~~
29 ~~process consistent with this paragraph. These criteria and~~
30 ~~procedures shall apply only to funding eligibility and may not~~
31 ~~extend to other renewable marketing claims.~~

32 ~~(4) Customer credits may not be awarded for the purchase of~~
33 ~~electricity that is used to meet the obligations of a renewable~~
34 ~~portfolio standard.~~

35 ~~(5) The Public Utilities Commission shall notify the~~
36 ~~commission in writing within 10 days of revoking or suspending~~
37 ~~the registration of any electric service provider pursuant to~~
38 ~~paragraph (4) of subdivision (b) of Section 394.25 of the Public~~
39 ~~Utilities Code.~~

1 *SEC. 13. Section 25746 of the Public Resources Code is*
2 *amended to read:*

3 25746. ~~One~~____ percent of the money collected pursuant to
4 the renewable energy public goods charge shall be used in
5 accordance with the ~~report~~ *commission's five-year investment*
6 *plan and this chapter* to promote renewable energy and
7 disseminate information on renewable energy technologies,
8 including emerging renewable technologies, and to help develop
9 a consumer market for renewable energy and for small-scale
10 emerging renewable energy technologies.

11 *SEC. 14. Section 25748 of the Public Resources Code is*
12 *amended to read:*

13 25748. (a) The commission shall report to the Legislature on
14 or before November 1, ~~2005~~ 2007, and annually thereafter,
15 regarding the results of the mechanisms funded pursuant to this
16 chapter. The report shall contain all of the following:

17 (1) A description of the allocation of funds among existing,
18 new, and emerging technologies, the allocation of funds among
19 programs, including consumer-side incentives, and the need for
20 the reallocation of money among those technologies.

21 (2) The status of account transfers and repayments.

22 (3) A description of the cumulative commitment of claims by
23 account, the relative demand for funds by account, and a forecast
24 of future awards.

25 (4) A list identifying the types and quantities of biomass fuels
26 used by facilities receiving funds pursuant to Section 25742 *or*
27 25743 and their impacts on improving air quality.

28 (5) A discussion of the progress being made toward achieving
29 the targets established under Section 25740 by each funding
30 category authorized pursuant to this chapter.

31 (6) A description of the allocation of funds from interest on
32 the accounts described in this chapter, and money in the accounts
33 described in subdivision (b) of Section 25751.

34 (7) An itemized list, including project descriptions, award
35 amounts, and outcomes for projects awarded funding in the prior
36 year.

37 (8) Other matters the commission determines may be of
38 importance to the Legislature.

39 (b) Money may be reallocated without further legislative
40 action among existing, new, and emerging technologies and

1 consumer-side programs in a manner consistent with the report
2 and with the latest report provided to the Legislature pursuant to
3 this section, except that reallocations ~~may~~ *shall* not reduce the
4 allocation established in Section 25743 nor increase the
5 allocation established in Section 25742.

6 *SEC. 15. Section 25749 of the Public Resources Code is*
7 *repealed.*

8 ~~25749. The commission shall, by December 1, 2003, prepare~~
9 ~~and submit to the Legislature a comprehensive renewable~~
10 ~~electricity generation resource plan that describes the renewable~~
11 ~~resource potential available in California, and recommendations~~
12 ~~for a plan for development to achieve the target of increasing the~~
13 ~~amount of electricity generated from renewable sources per year,~~
14 ~~so that it equals 17 percent of the total electricity generated for~~
15 ~~consumption in California by 2006. The commission shall~~
16 ~~consult with the Public Utilities Commission, electrical~~
17 ~~corporations, and the Independent System Operator, in the~~
18 ~~development and preparation of the plan.~~

19 *SEC. 16. Section 25750 of the Public Resources Code is*
20 *repealed.*

21 ~~25750. The commission shall participate in proceedings at the~~
22 ~~Public Utilities Commission that relate to or affect efforts to~~
23 ~~stimulate the development of electricity generated from~~
24 ~~renewable sources, in order to obtain coordination of the state's~~
25 ~~efforts to achieve the target of increasing the amount of~~
26 ~~electricity generated from renewable sources per year, so that it~~
27 ~~equals 17 percent of the total electricity generated for~~
28 ~~consumption in California by 2006.~~

29 *SEC. 17. Section 25751 of the Public Resources Code is*
30 *amended to read:*

31 25751. (a) The Renewable Resource Trust Fund is hereby
32 created in the State Treasury.

33 (b) The following accounts are hereby established within the
34 Renewable Resource Trust Fund:

35 (1) The Existing Renewable Resources Account.

36 (2) New Renewable Resources Account.

37 (3) Emerging Renewable Resources Account.

38 ~~(4) Customer-Credit Renewable Resource Purchases Account.~~

39 ~~(5)~~

40 (4) Renewable Resources Consumer Education Account.

1 (c) The money in the fund may be expended for the state's
2 administration of this article only upon appropriation by the
3 Legislature in the annual Budget Act.

4 (d) ~~Notwithstanding Section 383, that~~ That portion of revenues
5 collected by electrical corporations for the benefit of in-state
6 operation and development of existing and new and emerging
7 renewable resource technologies, pursuant to Section 399.8 of
8 the Public Utilities Code, shall be transmitted to the commission
9 at least quarterly for deposit in the Renewable Resource Trust
10 Fund pursuant to ~~Section 399.6 of the Public Utilities Code~~
11 ~~25740.5~~. After setting aside in the fund money that may be
12 needed for expenditures authorized by the annual Budget Act in
13 accordance with subdivision (c), the Treasurer shall immediately
14 deposit money received pursuant to this section into the accounts
15 created pursuant to subdivision (b) in proportions designated by
16 the commission for the current calendar year. Notwithstanding
17 Section 13340 of the Government Code, the money in the fund
18 and the accounts within the fund are hereby continuously
19 appropriated to the commission without regard to fiscal year for
20 the purposes enumerated in this chapter.

21 (e) Upon notification by the commission, the Controller shall
22 pay all awards of the money in the accounts created pursuant to
23 subdivision (b) for purposes enumerated in this chapter. The
24 eligibility of each award shall be determined solely by the
25 commission based on the procedures it adopts under this chapter.
26 Based on the eligibility of each award, the commission shall also
27 establish the need for a multiyear commitment to any particular
28 award and so advise the Department of Finance. Eligible awards
29 submitted by the commission to the Controller shall be
30 accompanied by information specifying the account from which
31 payment should be made and the amount of each payment; a
32 summary description of how payment of the award furthers the
33 purposes enumerated in this chapter; and an accounting of future
34 costs associated with any award or group of awards known to the
35 commission to represent a portion of a multiyear funding
36 commitment.

37 (f) The commission may transfer funds between accounts for
38 cashflow purposes, provided that the balance due each account is
39 restored and the transfer does not adversely affect any of the
40 accounts.

(g) The Department of Finance, ~~commencing March 1, 1999,~~ shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 18. Section 381 of the Public Utilities Code is amended to read:

381. (a) To ensure that the funding for the programs described in subdivision (b) and Section 382 are not commingled with other revenues, the commission shall require each electrical corporation to identify a separate rate component to collect the revenues used to fund these programs. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage. ~~This rate component shall fall within the rate levels identified in subdivision (a) of Section 368.~~

(b) The commission shall allocate funds collected pursuant to subdivision (a), and any interest earned on collected funds, to programs that enhance system reliability and provide in-state benefits as follows:

(1) Cost-effective energy efficiency and conservation activities.

(2) Public interest research and development not adequately provided by competitive and regulated markets.

(3) In-state operation and development of existing and new and emerging *eligible* renewable resource technologies defined as ~~electricity produced from other than a conventional power source within the meaning of Section 2805, provided that a power source utilizing more than 25 percent fossil fuel may not be included~~ *energy resources, as defined in Section 399.12.*

(c) The Public Utilities Commission shall order the respective electrical corporations to collect and spend these funds, ~~as follows:~~ *at the levels and for the purposes required in Section 399.8.*

~~(1) Cost-effective energy efficiency and conservation activities shall be funded at not less than the following levels commencing January 1, 1998, through December 31, 2001: for San Diego Gas~~

1 and Electric Company a level of thirty-two million dollars
2 (\$32,000,000) per year; for Southern California Edison Company
3 a level of ninety million dollars (\$90,000,000) for each of the
4 years 1998, 1999, and 2000; fifty million dollars (\$50,000,000)
5 for the year 2001; and for Pacific Gas and Electric Company a
6 level of one hundred six million dollars (\$106,000,000) per year.

7 (2) Research, development, and demonstration programs to
8 advance science or technology that are not adequately provided
9 by competitive and regulated markets shall be funded pursuant to
10 Section 399.8.

11 (3) In-state operation and development of existing and new
12 and emerging renewable resource technologies shall be funded at
13 not less than the following levels on a statewide basis: one
14 hundred nine million five hundred thousand dollars
15 (\$109,500,000) per year for each of the years 1998, 1999, and
16 2000, and one hundred thirty-six million five hundred thousand
17 dollars (\$136,500,000) for the year 2001. To accomplish these
18 funding levels over the period described herein the San Diego
19 Gas and Electric Company shall spend twelve million dollars
20 (\$12,000,000) per year, the Southern California Edison Company
21 shall expend no less than forty-nine million five hundred
22 thousand dollars (\$49,500,000) for the years 1998, 1999, and
23 2000, and no less than seventy-six million five hundred thousand
24 dollars (\$76,500,000) for the year 2001, and the Pacific Gas and
25 Electric Company shall expend no less than forty-eight million
26 dollars (\$48,000,000) per year through the year 2001. Additional
27 funding not to exceed seventy-five million dollars (\$75,000,000)
28 shall be allocated from moneys collected pursuant to subdivision
29 (d) in order to provide a level of funding totaling five hundred
30 forty million dollars (\$540,000,000).

31 (4) Up to fifty million dollars (\$50,000,000) of the amount
32 collected pursuant to subdivision (d) may be used to resolve
33 outstanding issues related to implementation of subdivision (a) of
34 Section 374. Moneys remaining after fully funding the provisions
35 of this paragraph shall be reallocated for purposes of paragraph
36 (3).

37 (5) Up to ninety million dollars (\$90,000,000) of the amount
38 collected pursuant to subdivision (d) may be used to resolve
39 outstanding issues related to contractual arrangements in the
40 Southern California Edison service territory stemming from the

1 Biennial Resource Planning Update auction. Moneys remaining
2 after fully funding the provisions of this paragraph shall be
3 reallocated for purposes of paragraph (3).

4 (6) The funding of in-state operation and development of
5 existing and new and emerging renewable resources technologies
6 shall be made available pursuant to Section 399.8.

7 (d) Notwithstanding any other provisions of this chapter, the
8 commission may allow entities subject to its jurisdiction to
9 extend the period for competition transition charge collection up
10 to three months beyond its otherwise applicable termination of
11 December 31, 2001, so as to ensure that the aggregate portion of
12 the research, environmental, and low-income funds allocated to
13 renewable resources shall equal five hundred forty million
14 dollars (\$540,000,000) and that the costs specified in paragraphs
15 (3), (4), and (5) of subdivision (c) are collected.

16 (e)

17 (d) Each electrical corporation shall allow customers to make
18 voluntary contributions through their utility bill payments as
19 either a fixed amount or a variable amount to support programs
20 established pursuant to paragraph (3) of subdivision (b). Funds
21 collected by electrical corporations for these purposes shall be
22 forwarded in a timely manner to the appropriate fund as specified
23 by the commission.

24 (f) For purposes of this article, “emerging renewable
25 technology” means a new renewable technology, including, but
26 not limited to, fuel cells using renewable fuels and photovoltaic
27 technology, that is determined by the State Energy Resources
28 Conservation and Development Commission to be emerging
29 from research and development and that has significant
30 commercial potential.

31 (g) The commission’s authority to collect funds pursuant to
32 this section, for purposes of paragraph (3) of subdivision (b),
33 shall become inoperative on March 31, 2002.

34 *SEC. 19. Section 383 of the Public Utilities Code is repealed.*

35 383. Moneys collected pursuant to paragraph (3) of
36 subdivision (b) of Section 381 shall be transferred to a
37 subaccount of the Energy Resources Programs Account of the
38 California Energy Resources Conservation and Development
39 Commission to be held until further action by the Legislature for
40 purposes of:

1 ~~(a) Supporting the operation of existing and the development~~
2 ~~of new and emerging in-state renewable resource technologies.~~

3 ~~(b) Supporting the operations of existing renewable resource~~
4 ~~generation facilities which provide fire suppression benefits,~~
5 ~~reduce materials going into landfills, and mitigate the amount of~~
6 ~~open-field burning of agricultural waste.~~

7 ~~(c) Supporting the operations of existing, innovative solar~~
8 ~~thermal technologies that provide essential peak generation and~~
9 ~~related reliability benefits.~~

10 ~~SEC. 20. Section 383.6 of the Public Utilities Code is~~
11 ~~repealed.~~

12 ~~383.6. The commission shall, by December 1, 2003, prepare~~
13 ~~and submit to the Legislature, a comprehensive transmission plan~~
14 ~~for renewable electricity generation facilities, to provide for the~~
15 ~~rational, orderly, cost-effective expansion of transmission~~
16 ~~facilities that may be necessary to facilitate the development of~~
17 ~~renewable electricity generation facilities identified in the~~
18 ~~renewable electricity generation resource plan prepared pursuant~~
19 ~~to Section 25749 of the Public Resources Code. The commission~~
20 ~~shall consult with the State Energy Resources Conservation and~~
21 ~~Development Commission, the Independent System Operator,~~
22 ~~and electrical corporations in the development of and preparation~~
23 ~~of the plan.~~

24 ~~SEC. 21. Section 384.1 of the Public Utilities Code is~~
25 ~~repealed.~~

26 ~~384.1. (a) For purposes of this section, "Energy~~
27 ~~Commission" means the State Energy Resources Conservation~~
28 ~~and Development Commission.~~

29 ~~(b) On or before March 15, 2006, the Energy Commission~~
30 ~~shall prepare and submit to the appropriate policy and fiscal~~
31 ~~committees of the Legislature, a report setting forth a long-term~~
32 ~~research priority, program management, and staffing plan for the~~
33 ~~Public Interest Energy Research Program, that is part of the~~
34 ~~Public Interest Research, Development, and Demonstration~~
35 ~~Program established pursuant to Section 25620.1 of the Public~~
36 ~~Resources Code and funded through the Public Interest Research,~~
37 ~~Development, and Demonstration Fund. The report shall do all of~~
38 ~~the following:~~

39 ~~(1) Designate, in priority order, between 5 and 10 areas of~~
40 ~~research.~~

1 ~~(2) Evaluate the current and projected funding and workload~~
2 ~~through 2011.~~

3 ~~(3) Identify, based on the priorities established by the Energy~~
4 ~~Commission, an effective and efficient program management~~
5 ~~structure, staffing, and funding requirements to adequately~~
6 ~~manage the projected workload.~~

7 ~~(4) Consider the appropriate mix of contract consultants and~~
8 ~~state employees, considering required technical expertise and~~
9 ~~overall costs.~~

10 ~~(e) The evaluation shall consider the manageability of an~~
11 ~~increasing number of projects and whether the number of~~
12 ~~projects should be limited, which areas of research have proven~~
13 ~~most productive, and structural changes to provide a greater~~
14 ~~degree of operational independence and research leadership to~~
15 ~~address the long-term problems identified by the Independent~~
16 ~~Review Panel in its March 2004 report.~~

17 ~~(d) The report required by this section may be included in the~~
18 ~~five-year investment plan report required by subdivision (b) of~~
19 ~~Section 399.7, if provided to the appropriate policy and fiscal~~
20 ~~committees of the Legislature by March 15, 2006.~~

21 **SECTION 1.**

22 *SEC. 22.* Section 399 of the Public Utilities Code, as added
23 by Section 4 of Chapter 1050 of the Statutes of 2000, is amended
24 to read:

25 399. (a) This article shall be known, and may be cited, as the
26 Reliable Electric Service Investments Act.

27 (b) The Legislature finds and declares that safe, reliable
28 electric service is of utmost importance to the citizens of this
29 state, and its economy.

30 (c) The Legislature further finds and declares that in order to
31 ensure that the citizens of this state continue to receive safe,
32 reliable, affordable, and environmentally sustainable electric
33 service, it is essential that prudent investments continue to be
34 made in all of the following areas:

- 35 (1) To protect the integrity of the electric distribution grid.
36 (2) To ensure an adequately sized and trained utility
37 workforce.
38 (3) To ensure cost-effective energy efficiency improvements.
39 (4) To achieve a sustainable supply of renewable energy.

1 (5) To advance public interest research, development and
2 demonstration programs not adequately provided by competitive
3 and regulated markets.

4 (d) It is the intent of the Legislature to reaffirm, without
5 requiring revision, California's doctrine, as reflected in
6 regulatory and judicial decisions, regarding electrical
7 corporations' reasonable opportunity to recover costs and
8 investments associated with their electric distribution grid and
9 the reasonable opportunity to attract capital for investment on
10 reasonable terms.

11 (e) The Legislature further finds and declares all of the
12 following:

13 (1) Acting under applicable constitutional and statutory
14 authorities, the Public Utilities Commission and the boards of
15 local publicly owned electric utilities have included in regulated
16 electricity prices, investments that are essential to maintaining
17 system reliability, reducing California electricity users' bills, and
18 mitigating environmental costs of California users' electricity
19 consumption.

20 (2) Among the most important of these "system benefits"
21 investments categories are energy efficiency, renewable energy,
22 and public interest research, development and demonstration
23 (RD&D).

24 (3) Energy efficiency investments funded from California's
25 usage-based charges on electricity distribution help improve
26 systemwide reliability by reducing demand in times and areas of
27 system congestion, and at the same time reduce all California
28 electricity users' costs. These investments also significantly
29 reduce environmental costs associated with California's
30 electricity consumption, including, but not limited to,
31 degradation of the state's air, water, and land resources.

32 (4) California's in-state renewable energy resources help
33 alleviate supply deficits that could threaten electric system
34 reliability, reduce environmental costs associated with
35 California's electricity consumption, and increase the diversity of
36 the electricity system's fuel mix, reducing electricity users'
37 exposure to fossil-fuel price volatility.

38 (5) ~~California's public-interest research, development and~~
39 ~~demonstration (RD&D)~~ RD&D investments enhance private and
40 regulated sector investment in electricity system technologies,

1 and are designed specifically to help ensure sustained
2 improvement in the economic and environmental performance of
3 the distribution, transmission, and generation and end-use
4 systems that serve California electricity users.

5 (6) California has established a long tradition of recovering
6 system benefits investments through usage-based electricity
7 charges, which is reflected in at least two decades of electricity
8 price regulation by the commission, the boards of local publicly
9 owned electric utilities, and the mandate of the Legislature in
10 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the
11 1995–96 Regular Session of the Legislature) and Chapter 905 of
12 the Statutes of 1997 (Senate Bill 90 of the ~~1995–96~~ 1997–98
13 Regular Session of the Legislature).

14 (7) Unless the Legislature acts to extend the mandate of
15 ~~Chapter 854 of the Statutes of 1996 and the Reliable Electric~~
16 ~~Service Investments Act~~ *this article* for minimum levels of usage
17 based system benefits charges, California electricity users are at
18 substantial risk of higher economic and environmental costs and
19 degraded reliability.

20 ~~SEC. 2.~~

21 *SEC. 23. Section 399 of the Public Utilities Code, as added*
22 *by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.*

23 *SEC. 24. Section 399.1 of the Public Utilities Code, as added*
24 *by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.*

25 ~~399.1. (a) As used in this article, the term “Energy~~
26 ~~Commission” means the State Energy Resources Conservation~~
27 ~~and Development Commission.~~

28 ~~(b) As used in this article, the term “local publicly owned~~
29 ~~electric utility” has the same meaning as set forth in subdivision~~
30 ~~(d) of Section 9604.~~

31 *SEC. 25. Section 399.2 of the Public Utilities Code, as added*
32 *by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.*

33 ~~399.2. (a) (1) It is the policy of this state, and the intent of~~
34 ~~the Legislature, to reaffirm that each electrical corporation shall~~
35 ~~continue to operate its electric distribution grid in its service~~
36 ~~territory and shall do so in a safe, reliable, efficient, and~~
37 ~~cost-effective manner.~~

38 ~~(2) In furtherance of this policy, it is the intent of the~~
39 ~~Legislature that each electrical corporation shall continue to be~~
40 ~~responsible for operating its own electric distribution grid~~

1 including, but not limited to, owning, controlling, operating,
2 managing, maintaining, planning, engineering, designing, and
3 constructing its own electric distribution grid, emergency
4 response and restoration, service connections, service turnons
5 and turnoffs, and service inquiries relating to the operation of its
6 electric distribution grid, subject to the commission's authority.

7 (b) In order to ensure the continued efficient use, and
8 cost-effective, safe, and reliable operation of the electric
9 distribution grid, each electrical corporation shall continue to
10 operate its electric distribution grid in its service territory
11 consistent with Section 330.

12 (c) In carrying out the purposes of this section, each electrical
13 corporation shall continue to make reasonable investments in its
14 electric distribution grid. Each electrical corporation shall
15 continue to have a reasonable opportunity to fully recover from
16 all customers of the electrical corporation, in a manner
17 determined by the commission pursuant to this code, all of the
18 following:

19 (1) Reasonable investments in its electric distribution grid.

20 (2) A reasonable return on the investments in its electric
21 distribution grid.

22 (3) Reasonable costs to operate its electric distribution grid.

23 (d) For purposes of this section, the term "electric distribution
24 grid" means those facilities owned or operated by an electrical
25 corporation that are not under the control of the Independent
26 System Operator and that are used to transmit, deliver, or furnish
27 electricity for light, heat, or power.

28 (e) Nothing in this section shall be construed to alter or to
29 affect any of the following:

30 (1) Section 216, 218, or 2827.

31 (2) The authority of the commission to establish and enforce
32 standards and tariff conditions for the interconnection of
33 customer-owned facilities to the electric distribution grid.

34 (3) The ratemaking authority of the commission under this
35 code.

36 (4) The authority of the commission to establish rules
37 governing the extension of service to new customers.

38 (f) Nothing in this section shall be construed to alter or affect
39 any authority or lack of authority of the commission regarding
40 the ownership and operation of new electric generation used in

1 whole, or in part, for the purpose of maintaining or enhancing the
2 reliability of the electric distribution grid.

3 ~~(g) Nothing in this section diminishes or expands any existing~~
4 ~~authority of a local governmental entity.~~

5 ~~(h) The commission shall require every electrical corporation~~
6 ~~operating an electric distribution grid to inform all customers~~
7 ~~who request residential service connections via telephone of the~~
8 ~~availability of the California Alternative Rates for Energy~~
9 ~~(CARE) program and how they may qualify for and obtain these~~
10 ~~services and shall accept applications for the CARE program~~
11 ~~according to procedures specified by the commission. Electrical~~
12 ~~corporations shall recover the reasonable costs of implementing~~
13 ~~this subdivision.~~

14 *SEC. 26. Section 399.3 of the Public Utilities Code, as added*
15 *by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.*

16 ~~399.3. Nothing in Section 399.2 shall be construed to~~
17 ~~preclude any of California's local publicly owned electric~~
18 ~~utilities from exercising authority to operate their electric~~
19 ~~distribution grid as provided under law.~~

20 ~~SEC. 3.~~

21 *SEC. 27. Section 399.4 of the Public Utilities Code, as added*
22 *by Section 4 of Chapter 1050 of the Statutes of 2000, is amended*
23 *to read:*

24 399.4. (a) (1) In order to ensure that prudent investments in
25 energy efficiency continue to be made that produce cost-effective
26 energy savings, reduce customer demand, and contribute to the
27 safe and reliable operation of the electric distribution grid, it is
28 the policy of this state and the intent of the Legislature that the
29 commission shall continue to administer cost-effective energy
30 efficiency programs authorized pursuant to existing statutory
31 authority.

32 (2) As used in this section, the term “energy efficiency”
33 includes, but is not limited to, cost-effective activities to achieve
34 peak load reduction that improve end-use efficiency, lower
35 customers’ bills, and reduce system needs.

36 (b) The commission, in evaluating energy efficiency
37 investments under its existing statutory authorities, shall also
38 ensure that local and regional interests, multifamily dwellings,
39 and energy service industry capabilities are incorporated into
40 program portfolio design and that local governments,

1 community-based organizations, and energy efficiency service
2 providers are encouraged to participate in program
3 implementation where appropriate.

4 ~~SEC. 4.~~

5 ~~SEC. 28.~~ Section 399.4 of the Public Utilities Code, as added
6 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

7 ~~SEC. 5.~~ Section 399.6 of the Public Utilities Code is amended
8 to read:

9 ~~399.6. (a) In order to optimize public investment and ensure~~
10 ~~that the most cost-effective and efficient investments in~~
11 ~~renewable resources are vigorously pursued, the Energy~~
12 ~~Commission shall create an investment plan as set forth in~~
13 ~~paragraphs (1) to (3), inclusive, to govern the allocation of funds~~
14 ~~provided pursuant to this article. The Energy Commission's~~
15 ~~long-term goal shall be a fully competitive and self-sustaining~~
16 ~~California renewable energy supply. The investment plan shall be~~
17 ~~in accordance with all of the following:~~

18 ~~(1) The investment plan's objective shall be to increase, in the~~
19 ~~near term, the quantity of California's electricity generated by~~
20 ~~in-state renewable energy resources, while protecting system~~
21 ~~reliability, fostering resource diversity, and obtaining the greatest~~
22 ~~environmental benefits for California residents.~~

23 ~~(2) An additional objective of the plan shall be to identify and~~
24 ~~support emerging renewable energy technologies that have the~~
25 ~~greatest near-term commercial promise and that merit targeted~~
26 ~~assistance.~~

27 ~~(3) The investment plan shall contain specific numerical~~
28 ~~targets, reflecting the projected impact of the plan, for both of the~~
29 ~~following:~~

30 ~~(A) Increased quantity of California electrical generation~~
31 ~~produced from emerging technologies and from overall~~
32 ~~renewable resources.~~

33 ~~(B) Increased supply of renewable generation available from~~
34 ~~facilities other than those selling to investor-owned utilities under~~
35 ~~contracts entered into prior to 1996 under the federal Public~~
36 ~~Utilities Regulatory Policies Act of 1978 (P.L. 95-617).~~

37 ~~(b) The Energy Commission shall, on an annual basis,~~
38 ~~evaluate progress on meeting the targets set forth in~~
39 ~~subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or~~
40 ~~any substitute provisions adopted by the Legislature upon review~~

1 of the investment plan, and assess the impact of the investment
2 plan on reducing the cost to Californians of renewable energy
3 generation.

4 (e) In preparing these investment plans, the Energy
5 Commission shall recommend allocations among all of the
6 following:

7 (1) (A) Except as provided in subparagraph (B), production
8 incentives for new renewable energy, including repowered or
9 refurbished renewable energy.

10 (B) Allocations may not be made for renewable energy that is
11 generated by a project that remains under a power purchase
12 contract with an electrical corporation originally entered into
13 prior to September 24, 1996, whether amended or restated
14 thereafter.

15 (C) Notwithstanding subparagraph (B), production incentives
16 for incremental new, repowered, or refurbished renewable energy
17 from existing projects under a power purchase contract with an
18 electrical corporation originally entered into prior to September
19 24, 1996, whether amended or restated thereafter, may be
20 allowed in any month, if all of the following occur:

21 (i) The project's power purchase contract provides that all
22 energy delivered and sold under the contract is paid at a price
23 that does not exceed commission-approved short-run avoided
24 cost of energy.

25 (ii) Either of the following:

26 (I) The power purchase contract is amended to provide that the
27 kilowatthours used to determine the capacity payment in any
28 time-of-delivery period in any month under the contract shall be
29 equal to the actual kilowatthour production, but no greater than
30 the five-year average of the kilowatthours delivered for the
31 corresponding time-of-delivery period and month, in the years
32 1994 to 1998, inclusive.

33 (II) If a project's installed capacity as of December 31, 1998,
34 is less than 75 percent of the nameplate capacity as stated in the
35 power purchase contract, the power purchase contract is amended
36 to provide that the kilowatthours used to determine the capacity
37 payment in any time-of-delivery period in any month under the
38 contract shall be equal to the actual kilowatthour production, but
39 no greater than the product of the five-year average of the
40 kilowatthours delivered for the corresponding time-of-delivery

1 period and month, in the years 1994 to 1998, inclusive, and the
2 ratio of installed capacity as of December 31 of the previous
3 year, but not to exceed contract nameplate capacity, to the
4 installed capacity as of December 31, 1998.

5 (iii) The production incentive is payable only with respect to
6 the kilowatthours delivered in a particular month that exceeds the
7 corresponding five-year average calculated pursuant to clause
8 (ii).

9 (2) Rebates, buydowns, or equivalent incentives for emerging
10 renewable technologies.

11 (3) Customer credits for renewables not under contract with a
12 utility.

13 (4) Customer education.

14 (5) Incentives for reducing fuel costs that are confirmed to the
15 satisfaction of the Energy Commission at solid fuel biomass
16 energy facilities in order to provide demonstrable environmental
17 and public benefits, including, but not limited to, air quality.

18 (6) Solar thermal generating resources that enhance the
19 environmental value or reliability of the electrical system and
20 that require financial assistance to remain economically viable, as
21 determined by the Energy Commission. The Energy Commission
22 may require financial disclosure from applicants for purposes of
23 this paragraph.

24 (7) Specified fuel cell technologies, if the Energy Commission
25 makes all of the following findings:

26 (A) The specified technologies have similar or better air
27 pollutant characteristics than renewable technologies in the
28 investment plan.

29 (B) The specified technologies require financial assistance to
30 become commercially viable by reference to wholesale
31 generation prices.

32 (C) The specified technologies could contribute significantly
33 to the infrastructure development or other innovation required to
34 meet the long-term objective of a self-sustaining, competitive
35 supply of renewable energy.

36 (8) Existing wind-generating resources, if the Energy
37 Commission finds that the existing wind-generating resources are
38 a cost-effective source of reliable and environmental benefits
39 compared with other eligible sources, and that the existing
40 wind-generating resources require financial assistance to remain

1 economically viable, as determined by the Energy Commission.
2 The Energy Commission may require financial disclosure from
3 applicants for the purposes of this paragraph.

4 (d) ~~The commission shall establish a cap on the aggregate~~
5 ~~amount of funds that may be awarded to public entities from the~~
6 ~~program that provides customer credits for renewables. The~~
7 ~~intent of the cap is to assure adequate funding of credits for~~
8 ~~residential and small commercial customers.~~

9 (e) ~~Notwithstanding any other provision of law, moneys~~
10 ~~collected for renewable energy pursuant to this article shall be~~
11 ~~transferred to the Renewable Resource Trust Fund of the Energy~~
12 ~~Commission.~~

13 SEC. 6. ~~Section 399.7 of the Public Utilities Code is amended~~
14 ~~to read:~~

15 399.7. (a) ~~In order to ensure that prudent investments in~~
16 ~~research, development and demonstration of energy efficient~~
17 ~~technologies continue to produce substantial economic,~~
18 ~~environmental, public health, and reliability benefits, it is the~~
19 ~~policy of this state and the intent of the Legislature that funds~~
20 ~~made available, upon appropriation, for energy related public~~
21 ~~interest research, development and demonstration programs shall~~
22 ~~be used to advance science or technology that are not adequately~~
23 ~~provided by competitive and regulated markets.~~

24 (b) ~~Notwithstanding any other provision of law, moneys~~
25 ~~collected for public interest research, development and~~
26 ~~demonstration pursuant to this section shall be transferred to the~~
27 ~~Public Interest Research, Development, and Demonstration Fund~~
28 ~~of the Energy Commission.~~

29 (c) ~~In lieu of the commission retaining funds authorized~~
30 ~~pursuant to Section 381 for investments made by electrical~~
31 ~~corporations in public interest research, development, and~~
32 ~~demonstration projects for transmission and distribution~~
33 ~~functions, up to 10 percent of the funds transferred to the Energy~~
34 ~~Commission pursuant to subdivision (b) shall be awarded to~~
35 ~~electrical corporations for public interest research, development,~~
36 ~~and demonstration projects for transmission and distribution~~
37 ~~functions consistent with the policies and subject to the~~
38 ~~requirements of Chapter 7.1 (commencing with Section 25620)~~
39 ~~of Division 15 of the Public Resources Code.~~

1 ~~SEC. 29. Section 399.6 of the Public Utilities Code is~~
2 ~~repealed.~~

3 ~~399.6. (a) In order to optimize public investment and ensure~~
4 ~~that the most cost-effective and efficient investments in~~
5 ~~renewable resources are vigorously pursued, the Energy~~
6 ~~Commission shall create an investment plan as set forth in~~
7 ~~paragraphs (1) to (3), inclusive, to govern the allocation of funds~~
8 ~~provided pursuant to this article. The Energy Commission's~~
9 ~~long-term goal shall be a fully competitive and self-sustaining~~
10 ~~California renewable energy supply. The investment plan shall be~~
11 ~~in accordance with all of the following:~~

12 ~~(1) The investment plan's objective shall be to increase, in the~~
13 ~~near term, the quantity of California's electricity generated by~~
14 ~~in-state renewable energy resources, while protecting system~~
15 ~~reliability, fostering resource diversity, and obtaining the greatest~~
16 ~~environmental benefits for California residents.~~

17 ~~(2) An additional objective of the plan shall be to identify and~~
18 ~~support emerging renewable energy technologies that have the~~
19 ~~greatest near-term commercial promise and that merit targeted~~
20 ~~assistance.~~

21 ~~(3) The investment plan shall contain specific numerical~~
22 ~~targets, reflecting the projected impact of the plan, for both of the~~
23 ~~following:~~

24 ~~(A) Increased quantity of California electrical generation~~
25 ~~produced from emerging technologies and from overall~~
26 ~~renewable resources.~~

27 ~~(B) Increased supply of renewable generation available from~~
28 ~~facilities other than those selling to investor-owned utilities under~~
29 ~~contracts entered into prior to 1996 under the federal Public~~
30 ~~Utilities Regulatory Policies Act of 1978 (P.L. 95-617).~~

31 ~~(b) The Energy Commission shall, on an annual basis,~~
32 ~~evaluate progress on meeting the targets set forth in~~
33 ~~subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or~~
34 ~~any substitute provisions adopted by the Legislature upon review~~
35 ~~of the investment plan, and assess the impact of the investment~~
36 ~~plan on reducing the cost to Californians of renewable energy~~
37 ~~generation.~~

38 ~~(c) In preparing these investment plans, the Energy~~
39 ~~Commission shall recommend allocations among all of the~~
40 ~~following:~~

1 ~~(1) (A) Except as provided in subparagraph (B), production~~
2 ~~incentives for new renewable energy, including repowered or~~
3 ~~refurbished renewable energy.~~

4 ~~(B) Allocations may not be made for renewable energy that is~~
5 ~~generated by a project that remains under a power purchase~~
6 ~~contract with an electrical corporation originally entered into~~
7 ~~prior to September 24, 1996, whether amended or restated~~
8 ~~thereafter.~~

9 ~~(C) Notwithstanding subparagraph (B), production incentives~~
10 ~~for incremental new, repowered, or refurbished renewable energy~~
11 ~~from existing projects under a power purchase contract with an~~
12 ~~electrical corporation originally entered into prior to September~~
13 ~~24, 1996, whether amended or restated thereafter, may be~~
14 ~~allowed in any month, if all of the following occur:~~

15 ~~(i) The project's power purchase contract provides that all~~
16 ~~energy delivered and sold under the contract is paid at a price~~
17 ~~that does not exceed commission-approved short-run avoided~~
18 ~~cost of energy.~~

19 ~~(ii) Either of the following:~~

20 ~~(I) The power purchase contract is amended to provide that the~~
21 ~~kilowatthours used to determine the capacity payment in any~~
22 ~~time-of-delivery period in any month under the contract shall be~~
23 ~~equal to the actual kilowatthour production, but no greater than~~
24 ~~the five-year average of the kilowatthours delivered for the~~
25 ~~corresponding time-of-delivery period and month, in the years~~
26 ~~1994 to 1998, inclusive.~~

27 ~~(II) If a project's installed capacity as of December 31, 1998,~~
28 ~~is less than 75 percent of the nameplate capacity as stated in the~~
29 ~~power purchase contract, the power purchase contract is amended~~
30 ~~to provide that the kilowatthours used to determine the capacity~~
31 ~~payment in any time-of-delivery period in any month under the~~
32 ~~contract shall be equal to the actual kilowatthour production, but~~
33 ~~no greater than the product of the five-year average of the~~
34 ~~kilowatthours delivered for the corresponding time-of-delivery~~
35 ~~period and month, in the years 1994 to 1998, inclusive, and the~~
36 ~~ratio of installed capacity as of December 31 of the previous~~
37 ~~year, but not to exceed contract nameplate capacity, to the~~
38 ~~installed capacity as of December 31, 1998.~~

39 ~~(iii) The production incentive is payable only with respect to~~
40 ~~the kilowatthours delivered in a particular month that exceeds the~~

1 ~~corresponding five-year average calculated pursuant to clause~~
2 ~~(ii):~~

3 ~~(2) Rebates, buydowns, or equivalent incentives for emerging~~
4 ~~renewable technologies:~~

5 ~~(3) Customer credits for renewables not under contract with a~~
6 ~~utility:~~

7 ~~(4) Customer education:~~

8 ~~(5) Incentives for reducing fuel costs that are confirmed to the~~
9 ~~satisfaction of the Energy Commission at solid fuel biomass~~
10 ~~energy facilities in order to provide demonstrable environmental~~
11 ~~and public benefits, including, but not limited to, air quality:~~

12 ~~(6) Solar thermal generating resources that enhance the~~
13 ~~environmental value or reliability of the electrical system and~~
14 ~~that require financial assistance to remain economically viable, as~~
15 ~~determined by the Energy Commission. The Energy Commission~~
16 ~~may require financial disclosure from applicants for purposes of~~
17 ~~this paragraph:~~

18 ~~(7) Specified fuel cell technologies, if the Energy Commission~~
19 ~~makes all of the following findings:~~

20 ~~(A) The specified technologies have similar or better air~~
21 ~~pollutant characteristics than renewable technologies in the~~
22 ~~investment plan:~~

23 ~~(B) The specified technologies require financial assistance to~~
24 ~~become commercially viable by reference to wholesale~~
25 ~~generation prices:~~

26 ~~(C) The specified technologies could contribute significantly~~
27 ~~to the infrastructure development or other innovation required to~~
28 ~~meet the long-term objective of a self-sustaining, competitive~~
29 ~~supply of renewable energy:~~

30 ~~(8) Existing wind-generating resources, if the Energy~~
31 ~~Commission finds that the existing wind-generating resources are~~
32 ~~a cost-effective source of reliable and environmental benefits~~
33 ~~compared with other eligible sources, and that the existing~~
34 ~~wind-generating resources require financial assistance to remain~~
35 ~~economically viable, as determined by the Energy Commission.~~
36 ~~The Energy Commission may require financial disclosure from~~
37 ~~applicants for the purposes of this paragraph:~~

38 ~~(d) The commission shall establish a cap on the aggregate~~
39 ~~amount of funds that may be awarded to public entities from the~~
40 ~~program that provides customer credits for renewables. The~~

1 ~~intent of the cap is to assure adequate funding of credits for~~
2 ~~residential and small commercial customers.~~

3 ~~(e) Notwithstanding any other provision of law, moneys~~
4 ~~collected for renewable energy pursuant to this article shall be~~
5 ~~transferred to the Renewable Resource Trust Fund of the Energy~~
6 ~~Commission, to be held until further action by the Legislature.~~
7 ~~The Energy Commission shall prepare and submit to the~~
8 ~~Legislature, on or before March 31, 2001, an initial investment~~
9 ~~plan for these moneys, addressing the application of moneys~~
10 ~~collected between January 1, 2002, and January 1, 2007. The~~
11 ~~initial investment plan shall also include an evaluation of and~~
12 ~~report to the Legislature regarding the appropriateness and~~
13 ~~structure of a mandatory state purchase of renewable energy. On~~
14 ~~or before March 31, 2006, the Energy Commission shall prepare~~
15 ~~an investment plan proposing the application of moneys collected~~
16 ~~between January 1, 2007, and January 1, 2012. No moneys may~~
17 ~~be expended in the years covered by these plans without further~~
18 ~~legislative action.~~

19 *SEC. 30. Section 399.7 of the Public Utilities Code is*
20 *repealed.*

21 ~~399.7. (a) In order to ensure that prudent investments in~~
22 ~~research, development and demonstration of energy efficient~~
23 ~~technologies continue to produce substantial economic,~~
24 ~~environmental, public health, and reliability benefits, it is the~~
25 ~~policy of this state and the intent of the Legislature that funds~~
26 ~~made available, upon appropriation, for energy related public~~
27 ~~interest research, development and demonstration programs shall~~
28 ~~be used to advance science or technology that are not adequately~~
29 ~~provided by competitive and regulated markets.~~

30 ~~(b) Notwithstanding any other provision of law, moneys~~
31 ~~collected for public-interest research, development and~~
32 ~~demonstration pursuant to this section shall be transferred to the~~
33 ~~Public Interest Research, Development, and Demonstration Fund~~
34 ~~of the Energy Commission to be held until further action by the~~
35 ~~Legislature. The Energy Commission shall prepare and submit to~~
36 ~~the Legislature, on or before March 1, 2001, an initial investment~~
37 ~~plan for these moneys, addressing the application of moneys~~
38 ~~collected between January 1, 2002, and January 1, 2007. The~~
39 ~~initial investment plan shall address the recommendations of the~~
40 ~~PIER Independent Review Panel Report, dated March 2000, to~~

~~1 either transform the RD&D program within the Energy
2 Commission, or to administer it through, or in cooperation with,
3 an external organization. The initial investment plan shall include
4 criteria that will be used to determine that a project provides
5 public benefits to California that are not adequately provided by
6 competitive and regulated markets. On or before March 31, 2006,
7 the Energy Commission shall prepare an investment plan
8 addressing the application of moneys collected between January
9 1, 2007, and January 1, 2012. No moneys may be expended in
10 the years covered by these plans without further legislative
11 action.~~

~~12 (e) In lieu of the commission retaining funds authorized
13 pursuant to Section 381 for investments made by electrical
14 corporations in public interest research, development, and
15 demonstration projects for transmission and distribution
16 functions, up to 10 percent of the funds transferred to the Energy
17 Commission pursuant to subdivision (b) shall be awarded to
18 electrical corporations for public interest research, development,
19 and demonstration projects for transmission and distribution
20 functions consistent with the policies and subject to the
21 requirements of Chapter 7.1 (commencing with Section 25620)
22 of Division 15 of the Public Resources Code.~~

~~23 SEC. 7.~~

~~24 SEC. 31.~~ Section 399.8 of the Public Utilities Code is
25 amended to read:

399.8. (a) In order to ensure that the citizens of this state
26 continue to receive safe, reliable, affordable, and
27 environmentally sustainable electric service, it is the policy of
28 this state and the intent of the Legislature that prudent
29 investments in energy efficiency, renewable energy, and
30 research, development and demonstration shall continue to be
31 made.
32

(b) (1) Every customer of an electrical corporation, shall pay
33 a nonbypassable system benefits charge authorized pursuant to
34 this article. The system benefits charge shall fund energy
35 efficiency, renewable energy, and research, development and
36 demonstration.
37

(2) Local publicly owned electric utilities shall continue to
38 collect and administer system benefits charges pursuant to
39 Section 385.
40

(c) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, through January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars (\$135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with

1 Section 25620) and Chapter 8.6 (commencing with Section
2 25740) of Division 15 of the Public Resources Code.

3 (f) An applicant for the Large Nonresidential Standard
4 Performance Contract Program funded pursuant to paragraph (1)
5 of subdivision (b) and an electrical corporation shall promptly
6 attempt to resolve disputes that arise related to the program's
7 guidelines and parameters prior to entering into a program
8 agreement. The applicant shall provide the electrical corporation
9 with written notice of any dispute. Within 10 business days after
10 receipt of the notice, the parties shall meet to resolve the dispute.
11 If the dispute is not resolved within 10 business days after the
12 date of the meeting, the electrical corporation shall notify the
13 applicant of his or her right to file a complaint with the
14 commission, which complaint shall describe the grounds for the
15 complaint, injury, and relief sought. The commission shall issue
16 its findings in response to a filed complaint within 30 business
17 days of the date of receipt of the complaint. Prior to issuance of
18 its findings, the commission shall provide a copy of the
19 complaint to the electrical corporation, which shall provide a
20 response to the complaint to the commission within five business
21 days of the date of receipt. During the dispute period, the amount
22 of estimated financial incentives shall be held in reserve until the
23 dispute is resolved.

24 *SEC. 32. Section 399.9 of the Public Utilities Code, as added*
25 *by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.*

26 ~~399.9. (a) No part of this article shall be construed to alter or~~
27 ~~affect the low-income funding provisions set forth in Section~~
28 ~~382. Programs provided to low-income electricity customers,~~
29 ~~including, but not limited to, targeted energy efficiency services~~
30 ~~and the California Alternative Rates for Energy Program shall~~
31 ~~continue to be funded as set forth in Section 382.~~

32 ~~(b) Nothing in this article shall be construed to affect the~~
33 ~~jurisdiction of the commission over electric distribution service.~~

34 ~~SEC. 8.~~

35 *SEC. 33.* This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety
37 within the meaning of Article IV of the Constitution and shall go
38 into immediate effect. The facts constituting the necessity are:

39 In order to avoid disruption in renewable energy and
40 public-interest research, development and demonstration

- 1 programs, and to maximize the effectiveness of energy efficiency
- 2 programs, thereby promoting the public health and welfare, it is
- 3 necessary that this act take effect immediately.

O